

SUMMARY OF ELECTION LAWS AFFECTED BY 2008 LEGISLATURE

RSA 42:3 Swearing in Town Officers. Clarifies when newly elected town officials may be sworn into office.

RSA 654:31 Availability of Checklist and Voter Information. Establishes a set fee for copies of the town checklist. Allows the secretary of state to provide copies of the statewide checklist to political parties, political committees. The secretary of state may also provide candidates with a list of voters from the candidate's district.

RSA 654:46 Party Access to Voter Information. Repealed

RSA 655:32 Vacancies Among Party Candidates; No Declaration Filed; Incompatible Offices. Allows the party committee to fill a vacancy with a person who has already filed for office. If this action creates a vacancy, the party may fill that vacancy.

RSA 658:9, I Arrangement of Polling Place. Requires that pens with machine-readable ink be provided in all polling places where voting machines are used.

RSA 658:24 Disqualification of Certain Persons. Allows election officials whose name appears on the ballot for an office other than election official to be able to work in that election; however, they shall be disqualified from handling marked ballots and the counting of votes.

RSA 659:40 Bribing; Intimidation; Suppression. Re-enactment of bribery law.

RSA 659:49-b Opening Absentee Ballot Return Envelopes. Allows the moderator to authorize the slitting of the envelopes before the time established for processing the absentee ballots.

RSA 659:88 I(a) Write-In Votes and Nomination. Increases the number of write-in votes required to win a nomination in a state election from 10 to 35.

RSA 660:1 Application. Allows a recount to be requested in a state general election to be requested only if the difference between the applying candidate and the candidate declared elected is less than 20 percent of the total votes cast in the district.

RSA 660:2, IV State General Election Recounts; Fees. Allows the secretary of state to require a person applying for a recount to pay any estimated costs prior to commencing the recount.

RSA 660:3 Number of Recounts. Allows a recount to be requested in a state general election to be requested only if the difference between the applying candidate and the candidate declared elected is less than 20 percent of the total votes cast in the district.

RSA 660:7 Application. Allows a recount to be requested in a state primary election to be requested only if the difference between the applying candidate and the candidate declared elected is less than 20 percent of the total votes cast in the district, and allows a recount to be requested in a presidential primary election only if a candidate received at least 9 percent of the total votes cast.

RSA 669:17-a Filing Candidacy. Deletes reference to RSA 669:42 when filing for town office.

RSA 669:19 Nominations; Non-Partisan Ballot System. Eliminates the \$1 filing fee for town offices which carry a salary or other compensation.

RSA 669:20 Relative to Nomination Petitions. Repealed

RSA 669:21 Relative to Number of Petitions. Repealed

RSA 669:22 Withdrawal. Changes he to he or she.

RSA 669:34 Town Elections; Recounts; Declaration of Results. Repeals current law and re-enacts recount law for town elections.

RSA 669:35 Appeal from Recount. Requires any person filing a recount appeal to superior court to also file it with the town clerk.

RSA 669:61, IV Vacancies in Town Offices. New section relative to an option procedure for filling vacancies in elective town offices.

RSA 669:63 Selectmen. Refers to fillings vacancies in selectmen if provisions of RSA 669:61,IV is adopted.

Election Laws Affected by 2008 Legislative Session

Ch. 280, 2008
HB 1227
Eff. 8/26/8
REPEALED
and
REENACTED

RSA 42:3 Swearing in Town Officers. Any person elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office, may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. If no recount of the office is requested, any person elected to an office that was contested or for which a write-in candidate received 5 percent or more of the votes cast may be sworn in upon the expiration of the period for requesting a recount provided in RSA 669:30.

RSA 654:31 Availability of Checklist and Voter Information.

I. In this section:

(a) "Checklist information" means the data, in any form, required to be placed on the public checklist by RSA 654:25, when that data is obtained or derived from a checklist or from the statewide centralized voter registration database maintained by the secretary of state.

(b) "Commercial purposes" means knowingly using, selling, giving, or receiving the checklist information for the purpose of selling or offering for sale any property or service unrelated to an election or political campaign.

(c) "Nonpublic checklist" means the checklist bearing the names of voters who by law are entitled to have their status as a voter kept nonpublic.

(d) "Public checklist" means the checklist required by RSA 654:25 which contains the names of voters who by law are to be listed on a checklist available to the public in accordance with the restrictions established by this section.

II. In towns and cities, the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors of the checklist shall furnish one or more copies of the most recent public checklist of their town or city to any person requesting such copies. The supervisors of the checklist may only provide checklist information for their town or city. The supervisors of the checklist shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form.

III. Any person may view the data that would be available on the public checklist, as corrected by the supervisors of the checklist, on the statewide centralized voter registration database maintained by the secretary of state at the state records and archives center during normal business hours, but the person viewing data at the state records and archives center may not print, duplicate, transmit, or alter the data.

IV. The secretary of state shall, upon request, provide to a political party, as defined in RSA 664:2, IV, or to a political committee, as defined in RSA 664:2, III, a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the state. The secretary of state shall, upon request, provide to a candidate for county, state, or federal office a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the state or in the candidate's district. In this section, "voter history" means whether the person voted and, for primary elections, in which party's primary the person voted, in each state election for the preceding 2 years. The secretary of state shall charge a fee of \$25 plus \$0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the list provided under this section. In addition, the secretary of state shall charge and collect on behalf of and remit to the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist of their city or town been purchased from them. The secretary of state may provide lists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form.

Ch. 10, 2008
SB 437
Eff. 5/5/8
Amended

V. Except for fees collected on behalf of a city or town, fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city or by the secretary of state on behalf of a city or town under this section shall be for the use of the town or city.

VI. No person shall use or permit the use of checklist or voter information provided by any supervisors of the checklist or by the secretary of state for commercial purposes. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person. The secretary of state may insert inauthentic entries into copies of the public checklist provided under this section for purposes of facilitating enforcement of this paragraph.

VII. This section shall not be construed to restrict the transfer of checklist information to the state or federal courts as required by RSA 654:45 for any lawful purpose.

RSA 654:46 Party Access to Voter Information. Repealed Chapter 10, Laws of 2008: Effective May 5, 2008

RSA 655:32 Vacancies Among Primary Candidates; No Declaration Filed; Incompatible Offices. I. In case no declaration shall be filed by a candidate for any nomination to be voted for at a primary, the nomination may be made by the appropriate party committee as provided in this section. The appropriate party committee shall notify the secretary of state in writing of a person it designates to fill the vacancy. The person so designated may accept the nomination by, on or before the Wednesday following the expiration of the period for filing declarations of candidacy as provided in RSA 655:14, filing with the secretary of state a declaration of candidacy as provided in RSA 655:17. Any candidate accepting a nomination under this paragraph who has already filed for an incompatible office as defined in RSA 655:10 shall withdraw the prior filing. Any vacancy created by the withdrawal of a filing may be filled pursuant to this section. If the candidate is designated for the office of governor, councilor, state senator, or state representative, he or she shall also file on or before the Wednesday following the period for filing declarations of candidacy the appropriate affidavit as provided in RSA 655:29. Any candidate so designated by a party committee who has not filed all the forms required by this section within the required period of time shall not have his or her name printed on the state primary election ballot for that office.

Ch. 377, 2008
SB 492
Eff. 9/98
Amended

RSA 658:9, I Arrangement of Polling Place. I. The selectmen of each town and ward shall provide for a suitable place in which to hold state elections and shall see that the same is warmed, lighted, and furnished with proper supplies and conveniences. Such supplies and conveniences shall include a ballot box and a sufficient number of pens with machine-readable ink or soft black lead pencils.....(no changes in remainder of section)

Ch. 66, 2008
HB 1240
Eff. 9/1/8 at
12:01 a.m.
Amended

RSA 658:24 Disqualification of Certain Persons. Any person, other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elective position, other than a position of an election official, shall be disqualified from performing duties as an election official in that election. A person so disqualified shall not be considered to have vacated any office but rather only to be absent therefrom. A temporary replacement shall be appointed as provided in RSA 658:22. A moderator, clerk, selectman, inspector of election, or supervisor of the checklist whose name appears on a ballot for an elective position, other than the position of an election official, shall be disqualified from the handling of marked ballots and counting of votes.

Ch. 66, 2008
HB 1240
Eff. 7/20/8
Amended

RSA 659:40 Bribing; Intimidation; Suppression. I. No person shall directly or indirectly bribe any person not to register to vote or any voter not to vote for or against any question submitted to voters or to vote for or against any ticket or candidate for office at any election.

II. No person shall use or threaten force, violence, or any tactic of coercion or intimidation to knowingly induce or compel any other person to vote or refrain from voting, vote or refrain from voting for any particular candidate or ballot measure, or refrain from registering to vote.

Ch. 118, 2008
HB 1508
Eff. 7/1/8
Repealed and
Re-enacted

III. No person shall engage in voter suppression by knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information. Prohibited acts of voter suppression include:

(a) Challenging another person's right to register to vote or to vote based on information that he or she knows to be false or misleading.

(b) Attempting to induce another person to refrain from registering to vote or from voting by providing that person with information that he or she knows to be false or misleading.

(c) Attempting to induce another person to refrain from registering to vote or from voting at the proper place or time by providing information that he or she knows to be false or misleading about the date, time, place, or manner of the election.

IV. Whoever violates the provisions of this section or whoever conspires to violate the provisions of this section shall be guilty of a class B felony.

V. This section is not intended to preclude prosecution or sentencing under any section of RSA 640.

Ch. 108, 2008
SB 478
Eff. 7/27/8
NEW

RSA 659:49-b Opening Absentee Ballot Return Envelopes. The moderator or the moderator's designee may authorize the opening of absentee ballot return envelopes on election day prior to the time established for processing absentee ballots in RSA 659:49, provided that the opening of the return envelopes occurs in public with notice of the time and place. The affidavit envelope containing the ballot shall not be removed from the return envelope at such time, and the return envelope containing the affidavit envelope shall be secured until it is processed pursuant to RSA 659:50. This section shall not apply to return envelopes previously opened pursuant to RSA 657:21.

Ch. 142, 2008
HB 1204
Eff. 8/5/8
Amended

RSA 659:88, I(a) Write-In Votes and Nomination. I.(a) A person whose name was not printed on the official state primary election ballot of a political party shall not be entitled to the nomination of that party for any office unless the person received at least 35 write-in votes.

Ch. 377, 2008
SB 492
Eff. 9/9/8
Amended

RSA 660:1 Application. Any candidate for whom a vote was cast for any office at a state general election may apply for a recount, provided that the difference between the votes cast for the applying candidate and a candidate declared elected is less than 20 percent of the total votes cast in the towns which comprise the office to be recounted. The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday following the election. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

Ch. 377, 2008
SB 492
Eff. 9/9/8
Amended

RSA 660:2, IV State General Election Recounts; Fees. IV. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be greater than 3 percent of the total votes cast in the towns which comprise the office to be recounted, the candidate shall pay the fees as provided in RSA 660:2, III and shall agree in writing with the secretary of state to pay any additional costs of the recount. The secretary of state may require that the applying candidate pay the estimated additional costs of the recount prior to commencing the recount.

Ch. 377, 2008
SB 492
Eff. 9/9/8
Amended

RSA 660:3 Number of Recounts. Any candidate for whom a vote was cast for any office at a state general election, provided that the difference between the votes cast for the applying candidate and a candidate declared elected is less than 20 percent of the total votes cast in the towns which comprise the office to be recounted, shall be entitled to apply for only one recount under this chapter, and the declaration made by the secretary of state under RSA 660:6 shall be final, subject to a change in the result following an appeal to the ballot law commission, as provided in RSA 665:8, II. If more than one candidate for the same office in the same district applies for a recount under this chapter, and a recount is completed, such applications shall not result in a second recount.

Ch. 377, 2008
SB 492
Eff. 9/9/8
Amended

RSA 660:7 Application. Any person for whom a vote was cast for any nomination of any party at a state primary may apply for a recount, provided that the difference between the votes cast for the applying candidate and a candidate of that party declared nominated is less than 20 percent of the total votes cast for candidates of that party in the towns which comprise the office to be recounted. Any person receiving at least 9 percent of the votes cast in any party's presidential primary may apply for a recount. The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday after the primary for a recount of all ballots cast for such nomination. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

Ch. 118,
2008
HB 1508
Eff. 6/3/8
Amended

RSA 664:1 Applicability of Chapter. The provisions of this chapter shall apply to all state primary, general, and special elections, but shall only apply to presidential preference primaries as provided in this section. The provisions relating to political advertising, push polling, and enforcement, RSA 664:14 through RSA 664:22, shall additionally apply to presidential primary, city, town, school district, and village district elections.

Ch. 148, 2008
HB 1305
Eff. 8/5/8
Amended

RSA 669:17-a Filing Candidacy. No person shall file as a candidate for a town officer under the provisions of RSA 669:19 or RSA 669:42 for more than one seat on the same town or school district board, commission, committee, or council.

Ch. 148, 2008
HB 1305
Eff. 8/5/8
Amended

RSA 669:19 Nominations; Non-Partisan Ballot System. In a town which has adopted the non-partisan ballot system as provided in RSA 669:13, all candidates shall file a declaration of candidacy with the town clerk during the filing period for town candidates. Such filing period shall begin on the seventh Wednesday and end on the Friday of the following week before the town election. Such declaration of candidacy shall be prepared by the town clerk in substantially the following form: I, _____, declare that I am domiciled in the town of _____, and that I am a registered voter therein; that I am a candidate for the office of _____ and hereby request that my name be printed on the official non-partisan ballot of the town of _____.

Ch. 148, 2008
HB 1305
Eff. 8/5/8
Repealed

Amended

RSA 669:20, relative to nomination petitions – REPEALED

RSA 669:21, relative to number of petitions - REPEALED

RSA 669:22 Withdrawal. Where a candidate had duly filed according to RSA 669:19 for a non-partisan town election or where a party nominee has been certified to the clerk as provided in RSA 669:50 for a partisan town election, no withdrawal or declination of a candidate shall be accepted by the town clerk subsequent to the last dates for filing except if the candidate dies or shall make oath that he does not qualify for the public office for which he or she is filed because of age, domicile, or incapacitating physical disability acquired subsequent to his or her filing. If a candidate dies or withdraws as provided in this section, the town clerk shall not print the name of that candidate on the ballot. If the ballots have been printed, the clerk shall remove that name using pasters.

RSA 669:34 Town Elections; Recounts; Declaration of Results. I. Upon completion of the recount, the board of recount shall publicly declare the results and certify such declaration to the town clerk.

II. The town clerk shall record the certificate received under paragraph I; and the person so declared to have been elected shall, unless the result is changed upon appeal to the superior court, be the duly elected officer of such town.

III. A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount, provided the oath is taken by the deadline established by RSA 42:6.

IV. When a different person is declared elected following the recount, if no appeal is taken that person may take the oath of office and assume office on the sixth day following the date of the recount, provided that the oath is taken by the deadline established by RSA 42:6.

V. If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal.

Ch. 280, 2008
HB 1227
Eff. 8/26/8
REPEALED
and
RE-ENACTED

The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office.

VI. When an appeal involves a multi-seat office, every declared candidate for that office and any write-in candidate who received 5 percent or more of the votes cast shall be entitled to notice of the appeal and may choose to become a party to the appeal. When ruling on an appeal involving an election where voters elected more than one person to a multi-seat office, the court may remove from office any person who was declared elected at the election and at the recount who has already taken the oath of office and assumed office if the court determines that it is more likely than not that a different person was elected to that seat. The validity of any actions taken by a person who assumes office pursuant to this section and is later removed as a result of an appeal may not be challenged on the basis that the person was subsequently removed as a result of the appeal.

Ch. 267, 2008
HB 1227
Eff. 8/26/8
Amended

RSA 669:35 Appeal from Recount. Any person aggrieved by a ruling of the board of recount with respect to any ballot may, within 5 days thereafter, appeal to the superior court for the county in which such town is located; and such court shall have jurisdiction in equity to hear and determine the question presented. The person shall also file a copy of the appeal with the town clerk by 5:00 p.m. on the fifth day following the date of the recount.

Ch. 267, 2008
SB 414
Eff. 8/25/8
NEW

RSA 669:61, IV. Vacancies in Town Offices. IV. The legislative body of a town may adopt or rescind the optional procedure in this paragraph for filling vacancies in elective town offices. If the authorized person or body does not make an appointment to fill the vacancy pursuant to paragraph I within 45 days after at least one legally-qualified person has applied in writing for such appointment, then upon the filing of a petition with the selectmen signed by the number of voters required under RSA 39:3 for the warning of a special town meeting, presented not less than 90 days before the next annual town meeting, the selectmen shall call a special election to fill the vacancy. The special election shall be subject to the provisions of RSA 39:3 and other applicable provisions governing town elections. The person elected at the special election shall serve for a term ending upon the election and qualification of his or her successor. Unless otherwise provided, at the next annual town election, the voters of the town shall elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. If the town then refuses or neglects to fill the office, a vacancy shall be deemed again to exist.

Ch. 267, 2008
SB 414
Eff. 8/25/8
Amended

RSA 669:63 Selectmen. Vacancies in the board of selectmen shall be filled by appointment made by the remaining selectmen. Whenever the selectmen fail to make such appointment, the superior court or any justice thereof, on petition of any citizen of the town, and after such notice as the court shall deem reasonable, may appoint a suitable person to fill the vacancy; provided, however, that if the town has adopted the provisions of RSA 669:61, IV, and a petition thereunder is submitted before the submission of a petition under this section, the provisions of RSA 669:61, IV shall apply.